92

Supreme Court, U.S.
FILED

071422 MAY 13 2008

OFFICE OF THE CLERK

No. (7)

IN THE
Supreme Court of the United States

MICHAEL ANTHONY HURLEY
JO ANNA PICCIONE HURLEY
Petitioners

Versus

UNITED STATES BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, of the US Department of Homeland Security;
BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, Of the US Department of Homeland Security
Respondents

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

APPENDIX

Michael and Jo Anna Hurley
211 Silver Creek Cl
Lafayette, Louisiana 70508
Tel: (337) 993-1776
Fax: (337) 993-1775
Proceeding Pro Se

APPENDIX

Appendix A Decision of United States Court
Of Appeals for the Fifth Circuit
Dismissed for lack of jurisdiction
Filed December 6, 2007

Appendix B Decision of the United States
District Court Western District
Of Louisiana
Lafayette-Opelousas Division
Denied for lack of subject
matter jurisdiction
Filed April 4, 2007

Appendix C Order of United States Court
Of Appeals – Fifth Circuit
Denying Rehearing
Filed February 13, 2008

Appendix D Order of the United States Court
Of Appeals – Fifth Circuit
Denying Motion to Stay
Deportation
Filed April 10, 2007

Appendix E Notice of Denial of Application to
Register Residence or Adjust
Status against Michael Anthony
Hurley, Visa No. A95 609 022

May 11, 2004

Appendix F Notice of Intent to Deport...
against Michael Hurley,
May 17, 2004

Appendix G Order of Removal Section
217 against Michael Hurley
May 17, 2004

Appendix H Stay of Removal GRANTED
June 22, 2004 and EXTENDED
January 13, 2005 through
Deliberation of Private Bill

Appendix I Pardon by President of Italy
Certificate Of Expiation
For Michael Hurley, formerly
Michael Liddell
5/22/1970

Appendix I 2 Italian Penal Code: Art. 151 –
Amnesty (English & Italian)

Appendix I 3 Certification of Translation of
I and I 2 Aug. 7, 2007

Appendix J Granting of Amnesty and Pardon
D.P.R.N. 22 May 1970

Appendix J 2 Certification of Translation of J
Sept. 26, 2007

Appendix K 28 U.S.C. 1254 – Certiorari

Appendix L 28 U.S.C. 2403(a) – Intervention on Constitutional Question

Appendix M Title II, Act of 1996, Section 212 Controlled Substances

Appendix N Classes of Deportable Aliens Section 237 of INA

Appendix O INA 217- Visa Waiver Program

Appendix P 8 U.S.C. 1252 – Judicial Review

Appendix Q The Constitution – Proposal for a Twenty-Eight Amendment

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED Dec. 6, 2007

_____Stamp

No. 07-30313
Summary Calendar

Michael Anthony Hurley; JoAnna Hurley **Plaintiffs-Appellants**

Versus

United States Bureau of Immigration & Customs Enforcement, of the U.S. Dept. of Homeland Security; Bureau of Citizenship and Immigration Services, of the U.S. Dept. of Homeland Security **Defendants-Appellees**

Appeal from the United States District Court
For the Western District of Louisiana
U.S. 6:07-CV-608

Before WIENER, GARZA, and BENAVIDES,

Circuit Judges.

PER CURIAM:*

APPENDIX A

Proceeding *pro se*, Plaintiffs-Appellants (possibly, Petitioners-Appellants) Michael Anthony Hurley and Jo Anna P. Hurley, husband and wife, appeal the district court's denial of their Complaint/Motion for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Other Relief filed April 3, 2007. In its order, the district court offered that any relief to which the Hurleys might be entitled must be sought from this court pursuant to 8 U.S.C. Sec. 1252 as amended by the REAL ID Act of 2005. The Hurleys timely filed a purported notice of appeal entitled Complaint for Temporary Restraining Order, Preliminary Injunction, Permanent

---

*Pursuant to 5th CIR.R.47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th CIR.R.47.5.4.

Injunction and Petition for Review and Other Relief. Liberally construing the filings of these *pro se* parties as a timely notice of appeal, we decline to construe it as a petition for review, because if were we thus to construe it, we would have to dismiss it for lack of jurisdiction. This is because, as a petition for review, it is untimely filed on its face.

We are not unmindful of the plight of the Hurleys resulting from a relatively minor controlled substance violation by Michael decades ago in a foreign country, which violation and the punishment for it were subsequently omitted or misreported by Michael in his responses to questions posed by immigration officials in this country, all of which has led to his removal to his native England. Neither are we unsympathetic with the Hurleys or unmindful of the legitimate

concern of congressional officials for the Hurleys' circumstances. We are, however, bound to follow the clear and unambiguous dictates of the law applicable to this situation, which begins now as always with the threshold question of our jurisdiction. Finding we have none, we have no choice but to dismiss this appeal *cum* petition for review for lack of jurisdiction as a result of the untimely filing of the Hurleys' pleadings even when construed as a notice of appeal.

DISMISSED for lack of jurisdiction.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

Michael Anthony Hurley and JoAnna P. Hurley	**Civil Action No. 07-608**
Versus	**Judge Tucker Melancon**
Immigration & Customs Enforcement, et al	**Magistrate Judge Mildred E. Methvin**

ORDER

Before the Court is plaintiff's Complaint/Motion for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Other Relief [Rec. Doc. 1] which was filed April 3, 2007. The record reflects that plaintiffs are seeking to enjoin the U.S. Bureau of Immigration & Customs Enforcement and the U.S. Bureau of Citizenship & Immigration Services from removing, deporting or detaining plaintiff

Michael A. Hurley, a citizen of the United Kingdom and husband of plaintiff Jo Anna Hurley, a United States citizen.

U.S.C.A. Sec. 1252

(f) Limit on injunctive relief (1) In general: Regardless of the nature or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of part iV of this subchapter, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated. (2) Particular cases: Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.

(g) Exclusive jurisdiction:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

Pursuant to 8 U.S.C. Sec. 1252(f)(2) and 1252(g), as amended by the REAL ID Act of 2005, which governs judicial review of orders or removal, a district court lacks jurisdiction to prevent the execution of removal orders. See *Earls v. Copes, Warden, et al*, 2005 WL 2999149 (W.D. La. 2005)(citing *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471 (1999); *Alvidres-Reyes v. Reno*, 180 F.3d 199 (5th Cir. 1999); *Guzman v. Bureau of Immigration and Customs Enforcement*, 2006 WL 2345995 (S.D. Tex. 2006)(citing *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000); *Novikova v. Prendez, U.S. Immigration and Customs Enforcement Office*, 2006 WL 1424255 (N.D. Tex. 2006); *United States v. Adeoshun*, 2006 WL 3462937 (E.D. La. 2006). Accordingly, it is

ORDERED that plaintiff's Complaint/Motion for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Other Relief [Rec. Doc. 1] is DENIED for lack of subject matter jurisdiction.

Plaintiffs are advised that any relief they may be entitled to, which based on the allegations contained in their complaint facially appear to have no basis in law or in fact, must be directed to the United States Court of Appeals for the Fifth Circuit pursuant to 8 U.S.C. Sec. 1252, as amended by the REAL ID Act of 2005, and then, only if all of plaintiff Michael A. Hurley's administrative remedies have been exhausted.

Thus done and signed in Lafayette, Louisiana this 4th day of April, 2007.

"sg"

Tucker L. Melancon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED Feb. 13, 2008

_____**Stamp**

No. 07-30313

Michael Anthony Hurley; Jo Anna P. Hurley

Plaintiffs-Appellants

v.

United States Bureau of Immigration & Customs Enforcement, of the U.S. Dept. of Homeland Security; Bureau of Citizenship and Immigration Services, of The U.S. Dept. of Homeland Security

Defendants-Appellees

Appeal from the United States District Court
For the Western District of Louisiana, Lafayette

ON PETITION FOR REHEARING

Before WEINER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM: IT IS ORDERED that the petition for rehearing is DENIED.

APPENDIX C

ENTERED FOR THE COURT:

"s/g"

United States Circuit Judge

REHG-2

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED Apr. 10, 2007

_____Stamp

No. 07-30313

Michael Anthony Hurley; Jo Anna P. Hurley
Plaintiffs-Appellants

v.

United States Bureau of Immigration & Customs Enforcement, of the U.S. Dept. of Homeland Security; Bureau of Citizenship and Immigration Services, of The U.S. Dept. of Homeland Security
Defendants-Appellees

Appeal from the United States District Court
For the Western District of Louisiana, Lafayette

Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM: IT IS ORDERED that appellants motion to stay the deportation of Michael Anthony Hurley pending disposition of the appeal is DENIED.

MOT-21

APPENDIX D

U.S. Citizenship & Immigration Services
701 Loyola Ave. T8011
New Orleans, LA 70113
New Orleans District Office

Michael Anthony Hurley A 95 609 022
211 Silver Creek Circle
Lafayette, LA 70508

Notice of Denial of Application to Register Residence or Adjust Status

On July 24, 2003 you filed an Application to Register Residence or Adjust Status (Form I-485) pursuant to Section 245 of the Immigration and nationality Act, as amended (the Act).

Section 245 of the Act states, in pertinent part:

The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if ... (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

Section 212(a) of the Act states, in pertinent part:

CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION. – Except as otherwise provided in this Act, aliens who are inadmissible under the

following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(2) CRIMIN AL AND RELATED GROUNDS. –

(A) CONVICTION OF CERTAIN CRIMES. –

(i) IN GENERAL. – Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

...

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance . . . is inadmissible.

(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS. -

(C) (i) . . . Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

During your interview, under oath, when asked "Have you ever committed a crime of moral turpitude or a drug related offense, in or out of the United States, have you ever illicitly trafficked in any controlled substance?" Your answer on your I-485 application you marked "NO" and you verbally stated "NO". When shown a document signed by you stating that "I was imprisoned in Italy from 22nd August 1968 to 30 May 1970 for possession of 69 grams of hashish" you then admitted to being imprisoned and found guilty of a drug offense.

Accordingly, your application is hereby denied.

Furthermore, any employment authorization or advance parole previously granted on the basis of this application is hereby revoked.

May 11, 2004

"s/g"
Sara A. Smith,
SDAO for Michael
Conway, Acting
District Director,
Services

UNITED STATES DEPARTMENT
OF HOMELAND SECURITY
IMMIGRATION AND NATURALIZATION SERVICE

NOTICE OF INTENT TO DEPORT FOR VIOLATING THE TERMS OF YOUR ADMISSION UNDER SECTION 217 OF THE IMMIGRATION AND NATIONALITY

To: Michael Anthony HURLEY
File No. A95 609 022

C/O US Immigration and Naturalization Service
701 Loyola Avenue, New Orleans, Louisiana

The Immigration and Naturalization Service has determined that you entered the United States pursuant to Section 217 of the Immigration and Nationality Act. Accordingly, you executed a Form I-791, Visa Waiver Pilot Program Information form that explained to you the conditions of admission under the Visa Waiver Pilot Program. When you signed Form I-791, you also waived your right to contest deportability before an immigration judge and the Board of Immigration Appeals, and to any judicial review of any and all of the above decisions.

The Immigration and Naturalization service has determined that you have violated the terms of your admission under Section 217 of the Immigration and nationality act on the grounds that:

APPENDIX F

You failed to depart the United States on July 25, 2003.

Accordingly, the United States Immigration and Naturalization Service has entered an order that you be deported and removed from the United States.

Signature: "s/g"

Title: Assistant Special Agent in Charge,
George Lund, III

Date: May 17, 2004

Place: New Orleans, Louisiana

ORDER OF REMOVAL
SECTION 217

TO: Michael Anthony Hurley
A95 609 022
Having determined that:

1) You are neither a citizen nor a national of the United States, and

2) You applied for admission in the United States on April 26, 2003, at Dallas, Texas under section 217 of the Immigration and Nationality act, as a citizen of the United Kingdom, and authorized to remain until July 25, 2003, and

3) Upon application, you waived your right to contest any action for removal, except to apply for asylum, having applied for admission under section 217 of the Act;

4) You have violated the conditions of that admission in that:
(a)You are subject to removal from the United States pursuant to Section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act, as amended, in that you are a alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of (or a conspiracy or attempt to violate) any law or regulation of a state, the United

States, or a foreign country relating to a controlled substance, (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) You are subject to removal from the United States pursuant to section 237(a)(1)(B) of the Immigration and Nationality act(Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted, in violation of this Act.

By virtue of the authority vested in the Attorney General of the United States, and in me as his/her delegate, by the laws of the United States,

I HEREBY ORDER that you be removed from the United States of America.

"s/g" — May 17, 2004

James M. Johnston, — Date
Deputy Special Agent
In Charge
New Orleans, Louisiana

Office of Detention and Removal Operations

U.S. Department of Homeland Security
701 Loyola Avenue, Room T-8011
New Orleans, LA 70113

(STAMP) **U.S. Immigration and Customs Enforcement**

January 13, 2005

Mary L. Landrieu
United States Senator
Room 326, Federal Building
707 Florida Street
Baton Rouge, Louisiana 70801

Re: Michael Hurley, A95 609 022

Dear Senator Landrieu:

Please be advised that the Detention and Removal Operations Branch (DRO), New Orleans Field Office, is in receipt of your

APPENDIX H

January 11, 2005 request for an extension of the Stay of Deportation or Removal on behalf of the alien listed above.

On June 22, 2004, Mr. Hurley was granted a Stay of Deportation or Removal until January 21, 2005. In addition, Mr. Hurley was placed on an order of supervision on July 13, 2004, and is subject to reporting requirements. To date Mr. Hurley has reported to the New Orleans Field Office as required.

After a thorough consideration of the basis for the request, and your letter certifying the introduction of a private bill on Mr. Hurley's behalf on January 24, 2005, the request for Stay of Deportation or

Removal is granted through the deliberation of the private bill.

Should your office need any additional assistance please contact me directly at (504) 599-7815.

Sincerely,

"s/g"
Craig S. Robinson
Field Office Director

OFFICE OF THE DISTRICT ATTORNEY
AT
THE COURT OF ROME
EXECUTIVE OFFICE

(STAMP) Ministry of Finance
L 3.10

CERTIFICATE OF EXPIATION

THE UNDERSIGNED CHANCELLOR, IN RESPONSE TO A REQUEST BY LIDDELL MICHAEL CERTIFIES AND STATES AS FOLLOWS:

LIDDELL MICHAEL ANTHONY BORN IN INDIA ON 06/11/1946 WAS CONVICTED BY THE COURT OF ROME WITH SENTENCE ISSUED ON THE 03/17/1969 AND CONFIRMED IRREVOCABLY ON THE 10/10/1969 TO A SENTENCE OF 2 (TWO) YEARS IMPRISONMENT AND A FINE OF 200.000 LIRE (EQUAL TO 103.29 EURO) FOR VIOLATING THE LAWS ON DRUGS, CRIME COMMITTED ON 08/21/1968

APPENDIX I

ARRESTED ON 08/22/1968, REMAINED IN DETENTION UNTIL THE DATE OF 05/30/1970 (EQUAL TO 1 YEAR, 9 MONTHS AND 8 DAYS DETENTION).

UNDER DECLARATION ISSUED BY THE COURT OF ROME ON THE 02/15/1971, PARDON WAS APPLIED ACCORDING TO D.P.R.N. 283 OF 05/22/1970. THE REMAINING 2 MONTHS AND 22 DAYS OF DETENTION AND THE ENTIRE FINE WERE CONDONED [ABSOLVED OR REMITTED OR PARDONED].

THE FILE OF THE CONVICTION HAS BEEN PUT IN THE ARCHIVES.

ROME 07/05/2007 (SEAL OF THE REPUBLIC)

(STAMP) CHANCELLOR
Maria Antonietta Mianosa
"s/g"

A COPY OF THE ORIGINAL OF THE PRESENT DOCUMANT WAS RECEIVED,
FOR ADMINISTRATIVE USE ON THE 07/11/2007

BY: DOUGLAS MEAKIN (NOMINEE)

Art. 151 – Amnesty

The amnesty extinguishes the crime, and, if there is a sentence, it stops the execution of the sentence and the punishments.

If there are more crimes, the amnesty is applied to each crime for which has been issued.

The extinction of the crime because of the amnesty is limited to crimes committed the day before the amnesty became law, unless the amnesty establishes another date.

The amnesty may be put under certain conditions and obligations.

The amnesty does not include habitual criminals as in the case provided for in the

heading of art. 99: not to habitual criminals, or professionals by choice, other than the amnesty states otherwise.

CODICE PENALE: 3B

Art. 151 – Amnistia

L'amnistia estingue il reato, e, se vi e stata condanna, fa cessare l'esecuzione della condanna e le pene accessorie.

Nel concorso di piu reati, l'amnistia si applica ai singoli reati per i quali e conceduta.

La estinzione del reato per effetto dell'amnistia e limitata ai reati commessi a tutto il giorno precedente la data del decreto, salvo che questo stabilisca una data diversa.

L'amnistia puo essere sottoposta a condizioni o ad obblighi.

L'amnistia non si applica ai recidivi, nei casi preveduti dai capoversi dell'articolo 99, nea i delinquenti abituali, o prefessionali o per tendenza, salvo che il decreto disponga diversamente.

STATE OF LOUISIANA 3C

PARISH OF LAFAYETTE

I, Carolyn L. Greco, do hereby certify that this Certificate of Expiation for Liddell Michael, consisting of one (1) page, and Article 151 – Amnesty of the Italian Penal Code, consisting of one (1) page, are true and correct translations of the original documents presented to me in my offices, from Italian to English, that the translator is fluent and knowledgeable in both languages and has translated same to the best of their knowledge and ability.

/ "s/g" /

CAROLYN L. GRECO, President
LINGUA, INC.

Done and signed on this 7th day of August, 2007.

APPENDIX I 3

TRANSLATOR'S NOTE:

Section in italics shows text from previous page of original Italian document.

DECREE OF THE PRESIDENT OF THE REPUBLIC 22 MAY 1970, n. 283
(Gu n.127 of the 22/05/1970)
GRANTING OF AMNESTY AND PARDON.
(PUBLISHED IN THE OFFICIAL GAZETTE No. 127 of 22 MAY 1970)

PD:S3010856
URN:urn:nir:stato:decreto.presidente.republica:1970-05-22;283

DECREE OF THE PRESIDENT OF THE REPUBLIC 22 MAY 1970 n.283 Page 4 of 7

ARTICLE 6. (PARDON)

Other than what has been put forth in the preceding Articles 3 and 4, a pardon is granted, for every non-financial crime, with a period of not more than two years of detention and a fine of no more than two million lire, for

one or multiple detention periods.

In the evaluation of the preceding

punishments it has not been taken into

account:

c) For punishments expungeable because of

preceeding amnesties.

The pardon is reduced to half for convictions for crimes provided for under Articles 314 and 315 and Articles 317 and 319, first, second and third comma, 321, 322, second comma, 422, 438, 439 440, 441, 443, 444, 445, 446, 447, 528, 575, 576, 577, 628, 629, 630 of the Penal Code, including Articles 5 and 6, excluding the sentences for use and possession for personal use, and 18 of Law of 22 October 1954, No. 1041; With regard, moreover, for convictions for the crime provided for by Article 589 of the Penal Code when attached with the crime provided for by Article 593 of the same Penal Code and 133 of the sole text on the circulation on the roads approved by the decree of the President of the Republic, 15 June 1959, No. 393.

STATE OF LOUISIANA

PARISH OF LAFAYETTE

I, Carolyn L. Greco, do hereby certify that this document is text of Page 5 of the ITALIAN PENAL CODE, DECREE OF THE PRESIDENCE OF THE REPUBLIC 22 MAY 1970, No. 283 and text of previous pages of the same document as indicated in italics, that it is a true and correct translation of the original, presented to me in my offices, from Italian to English, that the translator is fluent and knowledgeable in both languages has translated same to the best of his knowledge and ability.

"s/g"
CAROLYN L. GRECO,
President LINGUA, INC.

September 26, 2007

28 U.S.C. § 1254. Courts of appeals; certiorari; certified questions: Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

APPENDIX K

28 U.S.C. § 2403(a). Intervention by United States or a State; constitutional question

(a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

APPENDIX L

TITLE II, IMMIGRATION AND NATIONALITY ACT OF 1996

Section 212(a)(2)(A)(i)(II)

(2) CRIMINAL AND RELATED GROUNDS.-

(A) CONVICTION OF CERTAIN CRIMES.-

(i) IN GENERAL.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense or an attempt or conspiracy to commit such a crime), or

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

SEC. 237. [8 U.S.C. 1227]

237 GENERAL CLASSES OF DEPORTABLE ALIENS:

(a) CLASSES OF DEPORTABLE ALIENS –

Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

(1) INADMISSIBLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS -

(A) Inadmissible Aliens.-Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens inadmissible by the law existing at such time is deportable.

(B) Present In Violation of Law - Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.

217 VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS [8 U.S.C. 1187]

(a) ESTABLISHMENT OF PILOT PROGRAM.-The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this section referred to as the "pilot program") under which the requirement of paragraph (7)(B)(i)(II) of section 212(a) may be waived by the Attorney General, in consultation with the Secretary of State,and in accordance with this section, in the case of an alien who meets the following requirements:

(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.-The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

(2) NATIONAL OF PILOT PROGRAM COUNTRY.-The alien is a national of, and presents a passport issued by, a country which-
(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and
(B) is designated as a pilot program country under subsection (c).

(3) EXECUTES IMMIGRATION FORMS.-The alien before the time of such admission completes such immigration form as the Attorney General shall establish.

(4) ENTRY INTO THE UNITED STATES.-If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.

(5) NOT A SAFETY THREAT.-The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

(6) NO PREVIOUS VIOLATION.-If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

(7) ROUND-TRIP TICKET.-The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).

(b) WAIVER OF RIGHTS.-An alien may not be provided a waiver under the pilot program unless the alien has waived any right-

(1) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

(2) to contest, other than on the basis of an application for asylum, any action for removal of the alien.

8 U.S.C. § 1252. Judicial review of orders of removal (in part)

(a) Applicable provisions

(1) General orders of removal

Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 1225 (b)(1) of this title) is governed only by chapter 158 of title 28, except as provided in subsection (b) of this section and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

(2) Matters not subject to judicial review.....

(C) Orders against criminal aliens

Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D), no court shall have jurisdiction to

review any final order of removal against an alien who is removable by reason of having committed a criminal offense covered in section 1182 (a)(2) or 1227 (a)(2)(A)(iii), (B), (C), or (D) of this title, or any offense covered by section 1227 (a)(2)(A)(ii) of this title for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 1227 (a)(2)(A)(i) of this title.

(D) Judicial review of certain legal claims

Nothing in subparagraph (B) or (C), or in any other provision of this chapter (other than this section) which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.....

(b) Requirements for review of orders of removal

With respect to review of an order of removal under subsection (a)(1) of this section, the following requirements apply:

(1) Deadline

The petition for review must be filed not later than 30 days after the date of the final order of removal.

(2) Venue and forms

The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.....

(4) Scope and standard for review

Except as provided in paragraph (5)(B)—

(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

(B) the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary,

(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law, and

(D) the Attorney General's discretionary judgment whether to grant relief under section 1158 (a) of this title shall be conclusive unless manifestly contrary to the law and an abuse of discretion.

No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 1158 (b)(1)(B), 1229a (c)(4)(B), or 1231 (b)(3)(C) of this title, unless the court finds, pursuant to subsection (b)(4)(B) of this section, that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.

THE CONSTITUTION –

PROPOSAL FOR A TWENTY-EIGHTH AMENDMENT

Because of the separation of part–American/ part–immigrant families by the US Federal Government, for reasons that are small in nature in comparison to the sacredness of a family's right to be together, this amendment is proposed and for the following reasons brought forth:

1) Never again must part–American/part–immigrant families be separated by the federal government without due process.

2) Life is sacred. So, we have due process to protect each individual from false imprisonment and unjust loss of liberty.

3) The family and marriage are sacred. They need the same protection that due process affords the individual. The eternally binding and sacred units of marriage and family are as sacred in the eyes of God as Life itself.

4) Never again must a part–American family be pulled apart and deprived of their liberty to

be together, and their property, which consists of not only of the things they own together but their working contractual relationship, whereby as they work together as a family they provide and uplift, give and take and build wealth together – a wealth that is not only physical but also emotional and spiritual. It is that spiritual wealth that is the most sacred, so sacred that God, himself, would come down from Heaven to protect it, if it were not that our Heavenly Father must allow us our free agency to work it out ourselves. But let me be clear. *It is not God's will that so many families in America remain in jeopardy of separation without due process.*

Amendment 28:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, being citizens, which are legally married or are the member of a family consisting of, at minimum, husband and wife or parent and son/daughter and, at maximum, immediate family unit relations consisting of husband, wife, and unmarried sons and daughters age 22 or below, shall be considered to be a family.

Section 2. All members of such family units, including immigrants, which have as a member at least one citizen of the United States, shall be completely protected by the

Constitution of the United States, and shall enjoy all of the Constitutional rights given to their immediate family United States citizen relative.

Section 3. No law shall be written, which shall deny any immigrant, who is a member of such a family, due process of law in a federal District court or Court of Appeals in deciding matters of deportation or removal. An immigrant, who is a member of a part–American family shall be removed from these United States only for the most egregious of reasons, and not for crimes which have for a penalty 3 years or less of prison, unless it is believed beyond doubt that the immigrant is a dangerous threat to the security of the United States and the citizens thereof, wherein exceptions can be made by the deliberation of a federal judge, who has access to questions of law that are before the court pertaining to each individual case.

Section 4. Families are sacred and are the fundamental unit of society. Governments are formed for the protection of both individuals and families. Because family members have sacred obligations to one another for their care and maintenance, and because immediate families share in rights to property owned by them, *the most fundamental right of a family is the right to be together.* No law shall be formed which shall abridge the right of a

family to be together, except that separation of a family by imprisonment or removal/deportation is accomplished by due process of law, and this is because of crimes committed by a member of that family or because a member of such a family is a danger or threat to the security of the United States of America. Egregious crimes committed in foreign nations by immigrants, who are members of family units containing a U.S. citizen, may be considered for the purposes of removal, but the removal may be effected only by due process of law within the United States federal court system – citizens' courts.

Written the Summer of 2006
Submitted this 11th day of May, 2008 by:

Jo Anna Piccione Hurley, M.Ed.
211 Silver Creek Cl
Lafayette, Louisiana 70508
(337) 993-1776
Fax (337) 993-1775

– Wife of Michael Anthony Hurley, citizen of England & immigrant
– Daughter of Joseph James Piccione, attorney at law and Wilma Kirkland Piccione
– Sister of James Kirkland Piccione, attorney at law